

REMARKS

Claims 1, 3, 5, 6, 22, 23 and 27-33 are provisionally rejected as being unpatentable over copending application Serial No. 10/587,374.

Applicants maintain the position that the claimed subject matter would not have been obvious to one skilled in the art from the disclosure of application Serial No. 10/587,374. Nevertheless, in order to minimize issues for appeal, and advance prosecution toward allowance, a terminal disclaimer is filed herewith.

The accompanying terminal disclaimer overcomes the examiner's obviousness-type double patenting rejection. Withdrawal is requested.

Claims 1, 3, 5, 6, 22, 23 and 27-33 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Boyce et al. (U.S. 4,284,542) in view of vanDrongelen et al. (US 6,103,814). The examiner, incorporating by reference to the Office action of January 10, 2008, maintains the rejection of the claims over the combined teachings of the cited art.

Boyce is cited by the examiner as showing hot melt adhesives which incorporate the claimed ionomer resins and as further showing the combination of this resin with the claimed tackifiers. The examiner urges that incorporation of the thermoplastic elastomer is suggested at col. 6, lines 63+. While acknowledging that the claimed composition is not exemplified, the examiner urges that it would be obvious to select the thermoplastic elastomer from listed optional ingredients. The examiner further applies the vanDrongelen patent as showing species of thermoplastic resins used in adhesive compositions. The examiner appears to urge that the use of the thermoplastic resins of vanDrongelen in the adhesive of Boyce would render applicants'

claims obvious to one of ordinary skill in this art. Applicants disagree.

The hot melt adhesive of the subject application is formulated for application at low temperatures and comprises a thermoplastic elastomer, a tackifying resin and an ionomer resin additive. A low application temperature hot melt adhesive is defined within applicants' disclosure as an adhesive capable of being applied at a temperature of between from about 200°F to about 300°F (see, e.g., page 3, lines 4-5 and 8).

Boyce discloses ionomer-based hot melt adhesives and sealant compositions that contain ammonium phosphate and have improved high temperature viscosity, which viscosity stability is measured viscosity at 205°C (401°F). The adhesives are described as having high mechanical strength and dead load creep resistance extending up to 100°C while still allowing pumping at 150°C-200°C (302°F-393°F). The Boyce compositions, which are not low application temperature hot melt adhesives, find use as glass sealants or adhesives for automobile windows. Preferably, the compositions also contain an inorganic filler, such as carbon black. Small quantities of a reinforcing agent may also be used and preferred reinforcing resins are disclosed at col. 6, lines 47-68. Such reinforcing agents are disclosed as being used in amounts of up to 30 parts per hundred of the terpolymer ionomer resin. See also Example 7. The inclusion of a polystyrene resin in the amounts disclosed for use by Boyce would not render obvious applicants' claimed low application temperature adhesive. The disclosure of vanDrongelen fails to cure this defect so as to render the claimed invention obvious.

The vanDrongelen patent does not disclose a low application temperature hot melt adhesive. While viscosity data at application temperatures of 120°C (248°F) and 140°C (284°F)

are reported, there is no disclosure that this is a temperature contemplated for adhesive application. At col. 55, lines 21-57, a method of determining creep performance (measured as elastic retention/percent of original length) for a bond made through spiral coating is disclosed. The adhesive of vanDrongelen is applied at a temperature of 160°C (320°F) through a nozzle heated to 160°C (320°F). I.e., the adhesive of vanDrongelen is not a low application temperature hot melt adhesive (an adhesive capable of being applied at a temperature of between about 200°F and 300°F).

There is no disclosure in the combined prior art that would motivate the skilled practitioner to add the polymers of vanDrongelen to the adhesive formulation of Boyce, and to modify the amounts of polymer and ionomer resin in formulation to prepare a low application temperature hot melt adhesive as claimed by applicants.

The invention claimed by applicant is not obvious over the applied prior art. Withdrawal of the Section 103 rejection of claims 1, 3, 5, 6, 22, 23 and 27-33 as being unpatentable over Boyce in view of vanDrongelen is requested.

Favorable action is solicited.

Respectfully submitted,

/Cynthia L. Foulke/

Cynthia L. Foulke
Reg. No. 32,364

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Henkel of America, Inc.
P. O. Box 6500
10 Finderne Avenue
Bridgewater, New Jersey 08807-0500
Telephone No.: 908-685-7483